



CRP (MD) Nos.1781 and 1843 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	16.08.2023
Pronounced on	10.11.2023

CORAM:

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

CRP (MD) Nos.1781 and 1843 of 2023

and

CMP(MD)Nos.8876 and 9249 of 2023

CRP(MD) No.1781 of 2023

Dakshanamara Nadar Sangam,
Tirunelveli,
Through its Secretary,
T.Rajakumar
Door No.70, Salai Street,
Sindhupondurai,
Tirunelveli District.

... Petitioner

Vs.

1.Kamaraj Nadar

2.Anitha R.Sivandham Nadar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.07.2023 passed in



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I.A.No.7 of 2022 in O.S.No.205 of 2022 on the file of the Principal Sub
Court, Tirunelveli, by allowing this Civil Revision Petition.

For Petitioner : Mr.Vallinayagam
Senior Counsel
for Mr.D.Nallathambi

For R1 : Mr.V.Raghavachari
Senior counsel
for Mr.Kingsly Solomon

For R2 : Mr.H.Arumugam

CRP(MD) No.1832 of 2023

Dakshanamara Nadar Sangam,
Tirunelveli,
Through its Secretary,
T.Rajakumar
Door No.70, Salai Street,
Sindhuppondurai,
Tirunelveli District.

... Petitioner

Vs.

1.Dakshanamara Nadarsangam,
Tirunelveli,
Through its Secretary,
Shanmugavel Nadar,
Door No.70, Salai Street,
Sindhuppondurai,
Tirunelveli District.



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2.Kamaraj Nadar

3.Anitha R.Sivandham Nadar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 06.07.2023 passed in I.A.No.8 of 2022 in O.S.No.205 of 2022 on the file of the Principal Sub Court, Tirunelveli, by allowing this Civil Revision Petition.

For Petitioner	: Mr.Vallinayagam Senior Counselling for Mr.D.Nallathambi
For R1	: Mr.P.Pethu Rajesh
For R2	: Mr.V.Raghavachari Senior counsel for Mr.Kingsly Solomon
For R3	: Mr.H.Arumugam

COMMON ORDER

These civil revision petitions are preferred against the orders passed in I.A.No.07 of 2022 and I.A.No.08 of 2022 in O.S.No.205 of 2022 on the file of Principal Sub Court, Tirunelveli.

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2. The suit in O.S.No.205 of 2022 was filed by the plaintiff restraining the first defendant and his men in conducting the extraordinary general body meeting on 04.05.2022. The petitioner/second defendant filed an application in I.A.No.07 of 2022 to accept the vakalat filed by one Rajakumar to represent the petitioner Sangam in the capacity of Secretary. I.A.No.08 of 2022 was filed by one R.Shanmugavel Nadar to accept his vakalat to represent the petitioner Sangam in the capacity of Secretary. A common order was passed by the Court below in the above applications accepting the vakalat filed by Mr.R.Shanmugavel Nadar as Secretary by allowing the petition filed in I.A.No.08 of 2022 and dismissed the application in I.A.No.07 of 2022 filed by Mr.Rajakumar Nadar for accepting his vakalat as Secretary of the Sangam.

3. Accordingly to the Revision Petition the Tirunelveli Dakshinamara Nadar Sangam is established for the welfare of community in 1948 by a Scheme Decree. The election for the Sangam will be held once in three years. The Office bearers will be elected in the election and their tenure is three years. Earlier, the election held was in 2018 and the last election was



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held in the Annual General Meeting on 31.08.2021. The election held on 31.08.2021 was conducted by the election officer Retd.Mr.Justice S.K.Krishnan. These Office bearers were functioning as Office Bearers from 31.08.2021. Mr.R.Shanmugavel Nadar was functioning as a Secretary.

An Election Tribunal was formed as per Clause 10(f)(i) of the bye-law of the Sangam to resolve the complaints with regard to the election dated 31.08.2021 which was headed by Retd.Mr.Justice.T.Mathivannan and his Lordship had conducted enquiry on the election dispute. Neither the second respondent in CRP(MD) No.1781 of 2023 nor Mr.T.Rajakumar lodged any complaint against the election before Tribunal. Some of the members of the Sangam filed a suit in O.S.No.342 of 2021 challenging the election dated 31.08.2021 before the Additional Principal Sub Court, Tirunelveli, which is pending adjudication. The contention of the defendants in the above suit in that '21 days' notice has been properly complied with and their election is valid. The validity of the election dated 31.08.2021 is pending adjudication before the Sub Court, Tirunelveli. Thereafter, the petitioner and the second respondent in CRP(MD) No.1781 of 2023 taking advantage of the pending



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suit before the Sub Court, Tirunelveli called for a Special General Meeting vide paper publication dated 12.04.2022 which was scheduled on 04.05.2022 and he also claimed that he gave a requisition letter dated 25.01.2021 to the President Mr.R.K.Kalidasa Nadar.

Hence, the plaintiff filed a civil suit vide O.S.No.205 of 2022 on 29.04.2022 against the defendants before the Sub Court, Tirunelveli, for the following relief:-

(i) to declare the public notice calling for Special Annual illegla General Body meeting scheduled on 04.05.2022 as null and void and to declare Special Annual illegal General Body meeting dated 04.05.2022 as illegal and without any legal sanctity

(ii) Permanent injunction against the first defendant and his men for not to conduct the Extraordinary General Body Meeting.

An application for interim injunction against the first defendant restraining him from convening a Special Annual General Body Meeting scheduled on 04.05.2022. While so, on 02.06.2022, Mr.R.Shanmugvel



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Nadar as a Secretary of the second defendant- Sangam filed his vakalat.

Mr.T.Rajakumar also appeared and filed his vakalat claim as Secretary to the Sangam.

4. The learned counsel appearing for the petitioner would submit that the said Rajakumar and Shanmugavel Nadar filed their vakalat on the same day for the second defendant Sangam. In pursuant to the order of the trial Court directing the second defendant to file the approval of the Registrar of Society, the said Rajakumar filed the approval form issued by the Registrar of Societies. The other person, namely, Shanmugavel Nadar did not file the approved form of the Registrar of Societies. As such the vakalat of T.Rajakumar ought to have been accepted to represent the Sangam. He would further submit that nowhere in the plaint averments nor in the cause title, the plaintiff's counsel mentioned the name of Shanmugavel Nadar as the Secretary of the Sangam. In fact, the plaintiff in the counter affidavit filed in I.A.No.07 of 2022 requested for appointment of receiver to meet out the daily affairs of the Sangam and also to maintain the rights of the members of the Sangam and I.A.No.11 of 2022 filed for the above purpose is pending.



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Therefore, the said statement of the plaintiff clearly establish that the said Rajakumar is only administrating the affairs of the Sangam and therefore, the trial Court ought to have accepted the vakalat of said Rajakumar. He would further submit that, the trial Court itself in the impugned order admitted that the said Rajakumar Nadar is administrating the Sangam. The learned counsel further submitted that the findings of the trial Court in the impugned order that if the election of T.Rajakumar is against the bye-laws, his Secretaryship cannot be recognized. This issue has to be dealt with by the trial Court only at the time of trial. The said Rajakumar in the Counter filed in I.A.No.08 of 2023 has clearly stated that he and his team are the Office bearers of the Sangam and administrating the Sangam and the suit summon was issued only to him. This statement was not rebutted by the said Shanmugavel Nadar. He would further state that in the order of the trial Court it is clearly mentioned that Mr.Rajakumar alone convened the general body meeting, recognizing him as the Secretary of the Sangam. The learned counsel further submitted that since the election of Shanmugavel Nadar is under challenge, he cannot be permitted to represent the Sangam as its Secretary. His further submission is that the said Rajakumar is administrating the affairs of the Sangam and he



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will be able to produce all the records of the Sangam which are necessary for the case. Therefore, it is prayed that the order passed by the trial Court is liable to be set aside and thereby accept the vakalat filed by Mr.T.Rajakumar.

5. On the other hand, the learned counsel appearing for the first respondent in CRP(MD) No.1781 of 2023 would submit that Mr.T.Rajakumar claims himself as Secretary based on Form-VII approved by District Registrar. However, as per the decision in R.Muralidaran and Ors. Vs The District Registrar & Ors. (2008) 2 LW 75, that the Registrar cannot go into issues touching upon the election and his act with respect to form VII which is merely ministerial. Therefore, approving Form-VII will not give any right to Mr.Rajakumar as Secretary of the Sangam. Moreover, the election disputes are pending in O.S.No.342 of 2021 and O.S.No.205 of 2022, the District Registrar ought not to have accepted the Form-VII of Mr.T.Rajakumar. Moreover his qualification is not in accordance with the bye-law of the Sangam and his Secretaryship has to be decided only in the suit in O.S.No.205 of 2022.

6. The learned counsel further submitted that earlier the second



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respondent filed Tr.O.P.No.106 of 2023 before the Principal District Court with stay petition in the month of April 2023 and withdrew the same in June 2023. Subsequently, he filed one another WP(MD) No.1531 of 2023 before this Court and the same was dismissed on 30.06.2023. In the meanwhile, his close-aide filled one another petition vide Tr.C.M.P.No.276 of 2023 and obtained interim stay order against O.S.No.205 of 2022 on 17.05.2023. Subsequently, on 12.06.2023, this Court while transferring the O.S.No.342 of 2021 to the Principal Sub Court, held that the Sub Court has to conduct the trial in accordance with tone and tenor of the order passed by the Division Bench in W.A.(MD) No.1448 of 2022 dated 07.02.2023. Thus, the intention of the second respondent and the petitioner is to prolong the case by filing some or other cases and obtain an interim order. Further, enforcement Directorate registered a criminal case against the second respondent and his brother which is still pending. Further the plaintiff already filed an application vide I.A.No.18 of 2023 in O.S.No.205 of 2022 to implead Mr.T.Rajakumar as Respondent No.4/Defendant No.4 in the suit. Therefore, he can contest the case and prove his case before the Sub Court, Tirunelveli. If T.Rajakumar is allowed to act as a secretary, he will make his illegal entry



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and illegal election as valid. That will be a bad precedent and cause prejudice to the Sangam. Therefore, the act of District Registrar in accepting the Form-VII is not valid and the District Registrar cannot usurp the power of the civil Court when the civil suits are pending adjudication in which the District Registrar also a party to the suit. The suit itself filed as against the convening of the Special General Meeting dated 04.05.2022. Thus, a person, who is claiming to be the elected as a Secretary in the Special General Meeting dated 04.05.2022 is unsustainable and unjustifiable. Consequently, the claim of the petitioner Mr.T.Rajakumar is not acceptable. Therefore, these civil revision petitions are liable to be dismissed.

7. The learned counsel for the second respondent in CRP(MD) No. 1781 of 2023 would submit that the District Registrar, who is the competent authority to accept anyone as Secretary of the Society has already recognized Mr.T.Rajakumar Nadar. Therefore, he alone is entitled to represent the Society in any proceedings before the Court of law. The observation granted in the writ appeal that both the parties are entitled to raise all the plea in the suit will not give any right to Shanmugavel Nadar to represent or make any



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claim of himself as Secretary of the Society unless his election is accepted as valid one by the Civil Court. His right to claim the post will accrue only if any decree passed in his favour in the suit and not now, whereas, the claim of T.Rajakumar, the elected Secretary, whose Form-VII was already accepted and taken on file by the statutory authority, which is also confirmed in the writ and writ appeal alone entitled to represent the Society as Secretary so long as the Civil Court on merits grants a decree holding the validity of election against him.

8. Heard the learned counsel appearing for the petitioner and the learned counsels for the respondents and records perused.

9. The I.A.No.07 of 2022 in O.S.No.205 of 2022 filed by second defendant through one T.Rajakumar as the Secretary of the Sangam to accept his vakalat. Another application in I.A.No.8 of 2022 in o.S.No.205 of 2022 was filed by the second defendant through one shanmugavel Nadar as Secretary of the Sangam. The issue arose is that whose vakalat has to be accepted to represent the second defendant Sangam. Both T.Rajakumar and



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Shanmugavel Nadar claim that they were elected in the general body meeting to the post of Secretary. According to T.Rajakumar since the District Registrar accepted his Form -VII recognizing him as the Secretary of the Sangam, he is entitled to represent the Sangam as its Secretary. On the other hand, Shanmugavel Nadar would contend that the election dated 31.08.2021 was conducted by the Election Officer Mr.Justice S.K.Krishnan (Retired). Mr.R.Shanmugavel Nadar was elected and was functioning as Secretary of the Sangam and his team are functioning as office bearers from 31.08.2021. It is further submitted that the election of Mr.T.Rajakumar was not in accordance to the bye-laws and the District Registrar ought not to have accepted the Form-VII submitted by T.Rajkumar.

10. When election disputes are pending in O.S.No.205 of 2022 and O.S.No.342 of 2021, the validity of election could be decided only in the above suits by letting in evidence to sustain their respective claims. The only issue to be considered in this revision petition is whether the order of the trial Court accepting the vakalat of Shanmuga Nadar to represent the Sangam is sustainable. The trial Court in the impugned order has rightly held that it



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would be appropriate to accept the vakalat of Shanmuga nadar for the reason that the said Shanmuga Nadar was elected as Secretary of the Sangam in the election held in the Annual General Meeting on 31.08.2021 conducted by the Election Officer (Retired) Mr.Justice.S.K.Krishnan. The trial Court also observed that the subsequent election of Thiru.Rajkumar as Secretary of the Sangam on 04.05.2022 is under challenge in the suit in O.S.No.205 of 2022 and therefore, it would not be appropriate to permit the said Thiru.Rajkumar to represent the Sangam. Since the election conducted on 31.08.2021 was not declared as invalid in O.S.No.342 of 2021 and the suit is still pending challenging the said election, Thiru.Shanmugavel Nadar functioning as a Secretary of the said Sangam his vakalath ought to be accepted. Moreover, the election of Rajkumar in the Special General Meeting dated 04.05.2022 is under challenge in O.S.No.205 of 2022. it would not be appropriate to allow Thiru.Rajkumar to represent the Sangam as its Secretary when Thiru.Shanmuga Nadar as Secretary and his Office bearers are already functioning from 31.08.2021. They were not removed from their office by any order of the Court. Further, the first respondent/plaintiff already filed an application in I.A.No.18 of 2022 in O.S.No.205 of 2022 to implead



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Thiru.Rajkumar as fourth defendant in the suit. He can very well contest the case. Therefore, no infirmity is found in the order of the trial Court in I.A.No.7 of 2022 and I.A.No.8 of 2022 in O.S.No.205 of 2022. Accordingly, these Civil Revision Petitions are dismissed and the order of the trial Court is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

The Principal Subordinate Judge,
Tirunelveli.



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K.GOVINDARAJAN THILAKAVADI

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Pre-delivery order made in
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